

REMARKS

Reconsideration of this application as amended is respectfully requested.

In the Office Action, claims 1-27 were pending. Claims 1-7, 9, 10, 12-15, 17, 18, 20-23, 25 and 26 were rejected. Claims 8, 11, 16, 19, 24 and 27 are objected to.

In this response, no claim has been canceled. Claims 1-2, 4-5, 8, 11-13, 16, 19-21, 24, and 27 have been amended. Applicants acknowledge with appreciation the allowance of claims 8, 11, 16, 19, 24 and 27. However, at this time, Applicants elect not to place the limitations of the allowed claims into their corresponding independent claims because Applicants respectfully believe that the revised independent claims are in condition for allowance. No new matter has been added.

Specifically, claims 8, 11, 16, 19, 24, and 27 have been amended as independent claims including substantially all limitations of their respective base and intervening claims. As a result, it is respectfully submitted that claims 8, 11, 16, 19, 24, and 27 are allowable.

Claims 1-7, 9-10, 12-15, 17-18, 20-23, and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Itoh et al., U.S. Patent No. 5,305,310 ("Itoh"). In view of the foregoing amendments, it is respectfully submitted that 1-7, 9-10, 12-15, 17-18, 20-23, and 25-26 as amend include limitations that are not disclosed by Itoh.

Specifically, independent claim 1 as amended recites as follows:

1. A method for selecting packets, comprising:
pipelining execution of packet selection processes so that execution of each of the packet selection processes occurs at different levels of a scheduling hierarchy, each level of the scheduling hierarchy corresponding to a priority level associated with an egress queue that receives packets, wherein the priority level is determined based on a contracted rate of the egress queue; and
selecting at least two different packets at two different times in response to execution of the packet selection processes.

(Emphasis added).

Independent claim 1 includes limitations of pipelining execution of packet selection processes so that execution of each of the packet selection processes occurs at different levels of a scheduling hierarchy. Each level of the scheduling hierarchy corresponds to a priority level associated with an egress queue that receives packets. The priority level is determined based on a contracted rate of the egress queue. At least two different packets are then selected at two different times in response to execution of the packet selection processes. It is respectfully submitted that the above limitations are absent from Itoh.

In contrast, Itoh discloses selecting one packet and dropping the rest of the packets if they are related to the same destination (see, col. 1, line 56 to col. 2, line 2 of Itoh). Itoh fails to disclose a scheduling hierarchy in which each level of the scheduling hierarchy corresponds to a priority level associated with an egress queue that receives packets, where the priority level is determined based on a contracted rate of the egress queue, in order to allow different processes to select packets at different levels of the scheduling hierarchy. Therefore, independent claim 1 is not anticipated by Itoh.

Similarly, independent claims 4, 12, and 20 include limitations similar to those recited in claim 1. Thus, for the reasons similar to those discussed above, independent claims 4, 12, and 20 are not anticipated by Itoh.

Given that the rest of the claims depend from one of the above independent claims, at least for the reasons similar to those discussed above, it is respectfully submitted that the rest of the claims are not anticipated by Itoh. Withdrawal of the rejections is respectfully requested.

In view of the foregoing, Applicants respectfully submit the present application is now in condition for allowance. If the Examiner believes a telephone conference would

expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

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